

RECEIVED CLERK

MAR 26 2014

U.S. DISTRICT COURT

Name: EARL L. Barnes

Address: P.O. Box 250 WAE-348, Draper, UTAH. 84020-0250

Telephone: N/A

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISIONFILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

MAY 08 2014

D. MARK JONES, CLERK

BY

CIVIL RIGHTS COMPLAINT
(42 U.S.C §1983, §1985)

DEPUTY CLERK

EARL L. Barnes prose

(Full Name)

PLAINTIFF

vs.

U.D.C. + EMPLOYEESLogan S. ClarkJoseph CoombsKennon TubbsCody CharltonRaymond Merrill
DEFENDANTS

Case: 2:14-cv-00226

Assigned To : Nuffer, David

Assign. Date : 3/27/2014

Description: Barnes v. Clark et al

A. JURISDICTION

1. Jurisdiction is proper in this court according to:

a. ☒ 42 U.S.C. §1983b. ☐ 42 U.S.C. §1985c. ☒ Other (Please Specify) U.C.A. TITLE 63B-7-501(1)2. NAME OF PLAINTIFF EARL LESTON BARNES
IS A CITIZEN OF THE STATE OF UTAHPRESENT MAILING ADDRESS: P.O. Box 250, WAE 348DRAPER UTAH 84020-0250

1. Logan S. Clark - acting under color + authority state
law - physical assistance

2. Joseph Coombs - acting under color + authority state
law - physical assistance

3. Kevin Turbs - acting under color + authority state
law - medical Doctor

4. Cody Charlton - acting under color + authority state law
A.P.R.N.

5. Raymond Merrill - acting under color + authority state
law - physical assistance

1. Logan S. Clark - P.A. I been numerous times about the infection in my left ear and the infection in my bladder from 9-25-2009 to 7-31-2011

2. Joseph Coombs - P.A. I seen 3 times about the infection in my left ear and my bladder 9-2-2009 to 12-8-2010

3. Kennon Turbs M.D. I seen 3 times about the infection in my left ear and the infection in my bladder 9-9-2009 to 3-29-2011

4. Cody Charlton - ^{A.P.R.N.} I seen 3 times about the infection in my left ear and the infection in my bladder 8-9-10 to 6-6-2011

5. Raymond Merrill I seen P.A. Merrill June day before surgery and ask for pain pills I seen P.A. Merrill one day after surgery the two answers were the same. I have to check with the M.D.

3. NAME OF FIRST DEFENDANT Logan S. Clark
IS A CITIZEN OF SALT Lake, Utah
(City and State)

IS EMPLOYED AS P. A. at Ut. St. Prison
(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES ☒ NO ☐. If your answer is "YES" briefly explain.

See ATTACHED pages # 1-5

4. NAME OF SECOND DEFENDANT Joseph Coombs
(If applicable)

IS A CITIZEN OF SALT Lake Utah
(City and State)

IS EMPLOYED AS P. A. at Ut. St. Prison
(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES ☒ NO ☐. If your answer is "YES" briefly explain.

See ATTACHED pages # 2 5

5. NAME OF THIRD DEFENDANT Kennon Tubbs
(If applicable)

IS A CITIZEN OF SALT Lake Utah
(City and State)

IS EMPLOYED AS M. D. at Ut. St. Prison
(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES X NO __. If your answer is "YES" briefly explain.

See ATTACHED page # 3-5

6. NAME OF FOURTH DEFENDANT Cody Char L Ton
(If applicable)

IS A CITIZEN OF SALT Lake UTAH
(city and State)

IS EMPLOYED AS A. A. R.N. at UT. ST. PRISON
(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES X NO __. If your answer is "YES" briefly explain.

See ATTACHED page # 4-5

5. Raymond Merrill

See ATTACHED pages # 5-5

(Use additional sheets of paper if necessary.)

B. NATURE OF CASE

1. Why are you bringing this case to court? Please explain the circumstances that led to the problem.

AFTER SUBMITTING 25 HEALTH CARE REQUESTS OVER A

PERIOD OF 34 1/2 MONTHS FOR EAR AND URINARY INFECTION OF
UNKNOWN ORIGIN AND BEING SEEN BY EACH OF THE DEFENDANTS

TO NO QUAIL MY TYMPANIC MEMBRANE (EARDRUM)
RUPTURED AND I SUFFERED A MAJOR HEARING LOSS BESIDES THE MONTHS
OF EXTREME PAIN, DISCOMFORT, SLEEPLESSNESS CAUSE BY THE INFECTION
ITSELF AND THE STIGMA ATTACHED TO HAVING TO WEAR A HEARING
AID FOR THE REMAINDER OF MY LIFE SO I CAN HEAR AT THE
REMAINING 30% OF HEARING I HAVE LEFT. TO THIS DAY I STILL
HAVE A URINARY TRACT INFECTION THAT I SUFFER WITH ON A
DAILY BASIS, THAT HAS NOT BEEN DIAGNOSED TO ANY DEGREE
OF MEDICAL CERTAINTY

I SEEN P.A. CLARK A NUMEROUS OF TIME STARTING FROM 9-25-2009 AND WAS TOLD BY P.A. CLARK I HAD A LOT OF WAX BUILD-UP IT WOULD COME OUT. WHEN I GOT A, INFECTION IN MY LEFT EAR CLARK ORDER EARDROPS WHEN AS FOR ORAL ANTIBIOTIC WAS TOLD THE EAR DROPS HAD ANTIBIOTIC, I ASK TO HAVE MY EAR FLUSH WAS TOLD THEY DIDNT FLUSH EARS. IF MY EAR WAS FLUSH AND I WAS GIVEN ORAL ANTIBIOTIC MAY BE I WOULDN'T NEEDER THE OPERATIONS. LAST TIME I SEEN P.A. CLARK 7-7-2012.

AS AN EMPLOYEE OF THE STATE OF UTAH ACTING AS A P.A. HE DID NEGLECT HIS DUTIES AS A MEDICAL PROFESSIONAL IN THE TREATMENT OF MY LEFT EAR AND THE INFECTION, IN MY BLADDER.

IMMUNITY SHOULD BE WAIVED FOR HIS ACTIONS OR INACTIONS BECAUSE HE ACTED IN A FRAUDULENT MANNER THAT SHOULD BE DESCRIBED AS WILLFUL MISCONDUCT SEE U.C.A. TITLE 63G-7-501 (1) PLAINTIFF HERE BY PRESENTS THE FACTS OF WILLFUL MISCONDUCT AND FRAUD AS THE ELEMENT OF THIS SUIT THAT WAIVES IMMUNITY FOR THESE STATE ACTORS AS SUCH IMMUNITY IS WAIVED AND ALL OF THE DEFENDANTS ARE SUBJECT TO LIABILITY AND SUBSEQUENT JUDGEMENT. THE ACT OF FRAUD IS FROM MISS REPRESENTATIONS

made about non-existent records or records that
are created to purposefully mislead one to
believe that certain actions did or did not occur
such as scheduled tele med conferences

I Seen P. A. COOMBS- 9-2-2009 That's
When The infection STATED in my ear
COOMBS Told me I had a White Thickening
Around The Tympano Membrane. I was Told
I had To wait To see a M. D.,

ON- 9-24-2010 Seen P. A. COOMBS I
was Told I have issues with my
ear because I've had Several Surgeries.
I Told COOMBS I ONLY had one
Surgery, I ASK if I could get my ear
flushed? I was Told They don't do That.
I've Seen COOMBS Numerous Times
about my bladder and it's The
Same Thing We're doing all we can

AS A employee of The State of Utah
acting AS A P. A. he did neglected
his duties AS A medical professional
in The Treatment of my left ear
and my bladder infection maybe
if The provider had done his Job I
wouldn't have needed The Surgery.

Immunity Should be waived for his
action or inaction because he
acted in a fraudulent manner. That
should be described as willful

misconduct see U.C.G. Title 636-7-501(1) plaintiff hereby present the facts of willful misconduct and fraud as the element of this suit. That waives immunity for these state actors as such immunity is waived and all of the defendants are subject to liability and subsequent judgment. The act of fraud is from misrepresentation made about non-existent records misleads one to believe that certain actions did or did not occur such as scheduled "telemed" conferences.

I Seen Kennon TUBBS a Number of Time
for The 34½ months I put up with
my Left ear infection. When ask about
having my ear flushed I was Told They
didn't do That I would ask about
Oral antibiotic I was Told ear drops
have it in Them, When I Seen TUBBS
about my bladder infection and if I
Could get Oral antibiotic for more
Than 2 week I was Told Two week
was enough. I ask why my bladder
infection keeps coming back every
one To Two months. I was Told he didn't
know,

As an Employee of The State of Utah
acting as a M.D. he did neglect
his duties as a M.D. medical
professional in Treatment regimen
he prescribed for the care and treatment
of my Left ear and bladder infection

Immunity Should be waived for his
actions or inactions because he
acted in a fraudulent manner
That should be described as willful
misconduct see U.C.A. Title 63G-7-501(c)

#9

Plaintiff hereby presents the facts of willful misconduct and fraud as the element of this suit that Waives Immunity is waived and all of the defendants are subject to liability and subsequent judgment. The act of fraud is from misrepresentation made about non-existent records or records that are created to purposefully mislead one to believe that certain actions did or did not occur such as scheduled telemed conference.

When I had appointment with A.P.R.N Cody Charlton I would ask him for some oral antibiotic because the more I used ear drops the longer I had the infection and I ask him what causes an infection. Was told moisture and heat. Then I told him you give me ear drops and my body the heat don't that make the infection -- no answer, Charlton told me he would order more ear drops and keep my ear dry and I had a whitish clumpy discharge in my left ear canal.

As an Employee of The State of Utah, "acting as a A.P.R.N. he did neglect his duties as a medical professional in the treatment regimen he prescribed for the care and treatment of my left ear.

Immunity should be waived for his actions or inactions because he acted in a fraudulent manner that should be described as willful misconduct see U.C.A. Title 63G-7-501(1) plaintiff hereby presents the facts of willful misconduct and fraud as the elements of this suit

That Waive Immunity for These States actors, as such Immunity is waived and of The defendants are Subject To Liability and Subsequent Judgment. The Act of Fraud is from miss representation made about now-existent records or records that are created to purposefully miss lead one to believe that certain actions did or did not occur such as scheduled "Telemed" conferences

7. name of Fifth Defendant Raymond Merrill. (If Applicable) is a Citizen of Salt Lake Utah is Employed AS a P. A. AT Utah State Prison (position, and, Title if any) (organization) WAS The defendant acting under The Authority or Color of State Law AT The Tim These Claim occurred?
yes X no if you answer is yes briefly explain.

I Seen A. p. R. N. Ray mond Merrill ON 1-14-2010 And I Told him my Left ear drum was ruptured and him if he could make an earlier appointment with The E. n. T. Doctor.

I was Told my ear drum couldn't be ruptured and how did I know. Told I had appointment Two Weeks. I ask for pain pills was Told he would check with M. D.

I Seen A. p. R. N. RAY mond Merrill on 3-20-2010 The day After Surgey. He ask what I was Ther for? I Told him Med-Tech Sent me up.

He Then removed and Changed
Outer dressing. I ask for pain medicine
and was Told he would check with
M. D.

As an Employee of The State of
Utah "acting" as A.P.R.N. he
did neglect his duties as a Medical
professional in The Treatment
regimen his prescribed for The
Care and Treatment of my Left
ear before And after Surgery

Immunity should be waived for his
actions or inactions because he acted
in a fraudulent manner that should
be described as willful misconduct
See U.C.A. Title 63 G-7-501(1)
plaintiff here by presents The Facts
of willful misconduct and fraud
as The elements of this suit that
waived Immunity for These States
actor's as such Immunity is waived
and all of The defendants are
subject To Liability and subsequent
Judgment. The act of fraud is from
misrepresentations made about

NOW-EXISTENT records or records
that are created to purposefully
mislead one to believe that
certain actions did or did not occur
such as scheduled telemed conferences

C. CAUSE OF ACTION

1. I allege that my constitutional rights, privileges or immunities have been violated and that the following facts form the basis for my allegations: (If necessary you may attach additional pages)

a. (1) Count I: medical malpractice/neglect/malfeasance

- (2) Supporting Facts: (Describe exactly what each defendant did or did not do. State the facts clearly in your own words without citing legal authority or arguments.)

See ATTACHED pages - # 1 - 5

b. (1) Count II: medical malpractice/neglect/malfeasance

(2) Supporting Facts: See ATTACHED - 2 - 5

c. (1) Count III: medical malpractice/neglect/malfeasance

INJURY

The defendants willful misconduct and fraudulent medical treatment entries have resulted in medical malpractice in that the length of time spent diagnosing and treating my ear infection cost me sleeplessness, pain suffering, acute discomfort and eventually a loss of the majority of hearing in my left ear and they are still denying me treatment an operation that could help improve the loss of hearing I received at the defendants hands!

Regarding the urinary tract infection. I still deal with all the complications such as sleeplessness frequent urination but never the complete voiding of my bladder pain and feeling that my bladder is still full medications that contraindicate medications I'm already receiving and the constant excuses from each of the defendants as to why they can't send me to a specialist to deal with it properly.

(2) Supporting Facts: 3-5 See ATTach pages

4-5 See ATTach pages

5-5 See ATTach pages

D. INJURY

1. How have you been injured by the actions of the defendant(s)?

See ATTached page

E. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

1. Have you filed other lawsuits in state or federal court that deal with the same facts that are involved in this action or otherwise relate to the conditions of your imprisonment?
YES ____ / NO X. If your answer is "YES," describe each lawsuit. (If there is more than one lawsuit, describe additional lawsuits on additional separate pages, using the same outline.)

a. Parties to previous lawsuit:

Plaintiff(s): _____

Defendant(s): _____

b. Name of court and case or docket number: _____

- c. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?) _____
- d. Issues raised: _____

- e. When did you file the lawsuit? _____
Date Month Year
- f. When was it (will it be) decided? _____
2. Have you previously sought informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part C? YES ____ / NO _____. If your answer is "YES" briefly describe how relief was sought and the results. If your answer is "NO" explain why administrative relief was not sought.

F. REQUEST FOR RELIEF

1. I believe that I am entitled to the following relief:

I Feel I am entitled To proper medical care
and I would like money in the amount of 150,000.00
for pain, suffering and the loss of hearing in my left
ear, and the denial of proper treatment to
increase the amount of hearing I have lost and to
address the proper treatment of my urinary tract
infection, I feel I am entitled to the return of
all medical co-payments I have made regarding
my inefficient treatments received at the hands
of the defendant's to date

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint, and that the information contained therein is true and correct. 28 U.S.C. §1746; 18 U.S.C §1621.

Executed at Utah State Prison on March 17 2014.
(Location) (Date)

Earl P. Barnes
Signature

CERTIFICATE of mailing

I do here by Certify That a True and Correct
Copy was mailed, postage pre paid To The
ATTORNEY General's office, at 160 East
300 South Salt Lake City Utah 84114
ON This 17 day of March 2014

[Signature]

Earl L. Barnes

County of Salt Lake

My Commission Expires 8/1/17

